

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202

POLICY DIRECTIVE
RSA-PD-96-02
RSM-505
DATE: November 7, 1995

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
STATE REHABILITATION ADVISORY COUNCILS
CLIENT ASSISTANCE PROGRAMS
REGIONAL REHABILITATION CONTINUING EDUCATION
PROGRAMS
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Special Education Programs as "Other Rehabilitation" for Purposes
of the Application of the Provisions of Sections 101(a)(1)(B)(i) and
(2)(A)(i) of the Rehabilitation Act of 1973, as Amended

BACKGROUND: In 1920 the Federal legislation (Smith-Fess Act) authorizing the
vocational rehabilitation (VR) program specified that the program was to
be administered in the States by the State Boards of Vocational Education.
This requirement was the result of the fact that at the Federal level the
Smith-Fess Act specified that the Federal Board of Vocational Education
was to administer the program. It was thought that such an administrative
arrangement would work effectively given the same programmatic focus
at both the State and Federal levels. This administrative arrangement was
confirmed in the 1943 Amendments to the VR Act.

The 1954 amendments to the VR Act acknowledged that the vocational
education agency at the State level was not necessarily the best place in all
circumstances to locate the VR program. Through the amendments, a
second administrative approach was included, namely, the VR program
could be administered by a State agency that was primarily concerned
with vocational rehabilitation and other rehabilitation, i.e., an independent
State agency could be established to administer the VR program and other
programs for individuals with disabilities.

In the 1965 Amendments to the VR Act, the last significant change in the statutory provisions related to State administration of the VR program was enacted. This third option at the State level was the result of the perceived need for greater State flexibility with respect to the administration of the VR program and allowed for the administration of the VR program by a State agency that included at least two other units administering a program of education, health, welfare, or labor. This option is the so-called "umbrella" agency.

While expanding the options for States with respect to the administration of the VR program, Congress also placed provisions in the Act to protect the integrity and autonomy of the VR program. These provisions we know today as the organizational unit requirements, i.e., the unit must: be primarily concerned with vocational rehabilitation, or vocational and other rehabilitation of individuals with disabilities; have a full time director; have staff, all or substantially all of whom, are employed full-time on rehabilitation work; be comparable to other units in the designated State agency; and have the responsibility to administer the VR program of the State agency.

In reviewing the legislative history related to the 1965 amendments, it is clear that Congress sought to achieve a workable balance between State flexibility in terms of the prerogatives of a State to structure and organize its administration of the VR program in the manner it considers best (various statutory administrative options) and ensuring the visibility, integrity and autonomy of the VR program (organizational unit requirements).

Neither the statute nor the implementing regulations provide any clarification as to what types of programs are included under the term "other rehabilitation" in the statutory provision "primarily concerned with vocational rehabilitation, or vocational and *other rehabilitation*." Subregulatory policy of the Rehabilitation Services Administration (RSA) has, however, since 1966 identified certain types of programs as included under the term "other rehabilitation." Some examples are: independent living services, programs for individuals with developmental disabilities, services for individuals who are deaf or hearing-impaired, services for individuals who are blind or visually impaired, Social Security disability determinations, or another type of program related to individuals with disabilities.

With the current emphasis on streamlining State administrative structures and the statutory emphasis on the provision of services to facilitate the transition of individuals with disabilities from secondary school settings to employment, RSA has received inquiries about whether special education programs can be included under the statutory term "other rehabilitation" when applied to a State agency primarily concerned with VR, or vocational and other rehabilitation of individuals with disabilities (section 101(a)(1)(B)(i)) or a VR organizational unit that is primarily concerned with VR, or vocational and other rehabilitation of individuals with disabilities (section 101(a)(2)(A)(i)).

Although the Rehabilitation Act of 1973, as amended, and its implementing regulations do not specifically address the issue of special education programs vis-a-vis "other rehabilitation", the Act, particularly because of the 1992 amendments, clearly articulates the necessity of close cooperation and linkages between special education and VR programs. Some clear examples are the statutory provisions relating to transitioning and cooperative agreements (sections 101(a)(11)(C)(ii) and 101(a)(24)); the use of common definitions in both programs of the terms "assistive technology device" (section 7(23)), "assistive technology service" (section 7(24)), and "transition services" (section 7(35)); the use by VR agencies of existing data, particularly information furnished by education programs, and determinations made by special education officials, in making decisions with respect to eligibility for VR services and for developing individualized written rehabilitation programs (sections 101(a)(9)(A) and 102(a)(3)); and the authority for VR agencies to provide transition services (section 103(a)(14)). In addition, special education programs are not uniquely different from the types of programs RSA has by subregulatory policy identified as included under the term "other rehabilitation."

Based on these considerations, it is the policy of RSA that special education programs are considered as "other rehabilitation" for the purposes of the application of the provisions of 101(a)(1)(B)(i) and 101(a)(2)(A)(i) of the Act.

**POLICY
STATEMENT:**

For purposes of the application of the provisions of sections 101(a)(1)(B)(i) and 101(a)(2)(A)(i) of the Rehabilitation Act of 1973, as amended, special education programs are considered included under the term "other rehabilitation."

CITATIONS

IN LAW: Sections 101(a)(1)(B)(i) and 101(a)(2)(A)(i) of the Rehabilitation Act of 1973, as amended

EFFECTIVE

DATE: Upon Issuance

EXPIRATION

DATE: None

INQUIRIES: RSA Regional Commissioners

Fredric K. Schroeder
Commissioner

CC: CSAVR
NAPAS
RSA Regional Offices (II, IV, VII, VIII, and X)